

Message Text

SECRET

PAGE 01 SAN JO 03293 01 OF 02 190116Z
ACTION SS-25

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FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC IMMEDIATE 8136

S E C R E T SECTION 1 OF 2 SAN JOSE 3293

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EXDIS

E.O.11652: GDS
TAGS: PGOV, CS
SUBJECT: EXTRADITION: ROBERT VESCO

REF: A) SAN JOSE 2817 ?) STATE 165022

1. SUMMARY: AS DEPARTMENT IS AWARE, EMBASSY HAS ADDRESSED THE POSSIBILITIES OF SUCCESS OF RECOMMENDATION IN CIVILETTI LETTER (REF B) IN RECENT REPORTING (REF A), AND CONCLUDED JUST ONE MONTH AGO THAT "WE SHOULD NOT DECEIVE OURSELVES INTO THINKING THAT VESCO'S COORDINATED DEPORTATION FROM COSTA RICA TO THE U.S. IS A MORE VIABLE OPTION THAN EXTRADITION." THIS VIEW IS UNCHANGED BY RECENT DEVELOPMENTS. OUR OPINION REMAINS THAT " CHANCES OF PERSUADING GOCR TO DEPORT VESCO IN A WAY AND AT A TIME THAT WOULD PERMIT THE USG TO TAKE HIM INTO CUSTODY AS A FUGITIVE ARE PRACTICALLY NIL." IN LIGHT OF ONGOING VESCO/CORRUPTION POLITICAL DEVELOPMENTS HERE, EMBASSY RECOMMENDS THAT SUBSTANCE OF SAN JOSE 2817 AND THIS MESSAGE BE BROUGHT TO ATTENTION OF JUSTICE AND THAT IF WE CANNOT GO FORWARD ON EXTRADITION AT THIS TIME, WE DO NOTHING TO ALTER THE CURRENT SITUATION. END SUMMARY.

2. AN ATTEMPT TO GET COSTA RICA TO EXPEL VESCO AT THIS VERY SECRET

SECRET

PAGE 02 SAN JO 03293 01 OF 02 190116Z

LATE DATE, IN THE MIDST OF AN ELECTION CAMPAIGN IN WHICH VESCO IS A PRIME ISSUE, WOULD BE VIEWED HERE AS tantamount TO AN ADMISSION THAT THE U.S. DOES NOT REALLY HAVE AN EXTRADITABLE CASE AGAINST VESCO. IT MIGHT ALSO BE VIEWED IN SOME GOCR CIRCLES AND ELSEWHERE AS REINFORCEMENT TO A LINGERING BELIEF THAT THE U.S. G. IS AND HAS BEEN POLITICALLY MOTIVATED ALL ALONG. WE ARE POSITIVE THAT ODUBER WOULD

REJECT THE OVERTURE OUT OF HAND. HE WOULD REPEAT THE LINE THAT HE HAS OFFERED REPEATEDLY, BOTH PUBLICLY AND PRIVATELY, THAT THERE IS LEGAL RECOURSE, EXTRADITION, TO GET VESCO BEFORE THE BAR OF U.S. JUSTICE. HE COULD ALSO NOTE, AND MIGHT DO SO NOT ONLY PRIVATELY, THAT THE USG WOULD BE ASKING THE PRESIDENT OF COSTA RICA TO BREAK COSTA RICAN LAW, FOR VESCO IS PROHIBITED BY THE COURTS FROM LEAVING COSTA RICA UNTIL LOCAL JUDICIAL PROCEEDINGS AGAINST HIM ARE COMPLETED. (WE ARE SURPRISED THAT CIVILETTI LETTER DID NOT MENTION THIS ASPECT, WHICH HAS BEEN A KEY AREA OF CONSULTATION FOR LOCAL LAWYER CONTRACTED BY JUSTICE TO ADVISE ON EXTRADITION). THE RISK IS TOO GREAT IN THE CURRENTLY CHARGED CLIMATE OF DAILY EXCHANGES OF ALLEGATIONS IN THE ASAMBLEA AND THE PRESS THAT, IF AND WHEN THE LOCAL POLITICAL MOMENT WOULD REQUIRE IT, NEWS OF THE U.S. "REQUEST" WOULD BE LEAKED, AND THE USG WOULD THUS BE THRUST RIGHT INTO THE MIDDLE OF THE COSTA RICAN PRESIDENTIAL ELECTION CAMPAIGN.

3. THE ONLY WAY EMBASSY SEES FOR AN EXPULSION REQUEST POSSIBLY TO BE EFFECTIVE--AND WE ARE NOT AT ALL SANGUINE ABOUT ITS SUCCESS--WOULD BE THROUGH LINKAGE OF EXPULSION TO A SURE REPEAT SURE AND CONCURRENT EXTRADITION ATTEMPT. IT COULD BE EXPLAINED TO ODUBER THAT IN EVENT THAT VESCO'S DEPORTATION, DEPARTURE, OR EXPULSION IS NOT FORTHCOMING, U.S. WILL BE FORCED, RELUCTANTLY, TO GO THE LONG EXTRADITION ROUTE, AN OPTION WE WOULD PREFER TO AVOID DUE TO THE

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SECRET

PAGE 03 SAN JO 03293 01 OF 02 190116Z

POLITICAL CAMPAIGN IN COSTA RICA, WITH ALL THE PUBLICITY AND ALLEGATIONS THAT WOULD INSURE. HOWEVER, IT WOULD HAVE TO BE EMPHASIZED, THE ADMINISTRATION IS CONVINCED THAT U.S. JUSTICE HAS TO BE SERVED IN THIS MATTER AFTER TOO MANY YEARS OF DELAYS. THIS COULD UNFOLD SUCCESSFULLY ONLY IF WE HAD AN EXTRADITION REQUEST IN HAND AT THE TIME, AND GOCR DECISION CLEARLY WAS WHETHER TO EXPEL VESCO OR TO HAVE AN EXTRADITION PROCEEDING DISCUSSED DAILY IN THE LOCAL PRESS. EVEN THEN THE GOCR MIGHT WELL MOVE SIMPLY TO HAVE VESCO LEAVE THE COUNTRY NOT FOR THE U.S. BUT FOR ANOTHER REFUGE. IN SUCH A SCENARIO--OR FOR THAT MATTER IN ANY EXPULSION REQUEST SCENARIO--IT WOULD HAVE TO BE POINTED OUT AS WELL THAT WE ARE ACTING UNDER EXPLICIT INSTRUCTIONS AND THAT THE DECISION TO SO APPROACH THE GOCR HAS BEEN TAKEN AT HIGHEST LEVELS OF USG.

4. IF WE DO NOT LINK AN EXPULSION REQUEST TO A CONCURRENT EXTRADITION, WE ARE IN EFFECT ADMITTING THAT THE U.S. IS AND ALWAYS HAS BEEN A PAPER TIGER IN THIS EXERCISE--SOMETHING THAT MANY COSTA RICANS INCLUDING, WE THINK, ODUBER HAVE BELIEVED FOR A LONG TIME. A SIMPLE EXPULSION REQUEST AT THIS LATE DATE, WITH THIS UNFORTUNATE TIMING, WOULD BE BAD TACTICALLY AND AN UNBECOMING PRECEDENT FOR THE USG,

THE ADMINISTRATION, AND THE CRIMINAL JUSTICE SYSTEM OF THE U.S., NOT TO MENTION LESS THAN CREDIBLE AS A SERIOUS EFFORT TO GET MR. VESCO BACK TO THE U.S. IT COULD ALSO BE FRAUGHT WITH DANGER, IN TERMS OF OUR BILATERAL RELATIONS FAR OUT OF PROPORTION TO ANY HOPE OF SUCCESS. BY DROPPING AN EXPULSION REQUEST ON COSTA RICA AFTER FIVE YEARS OF USG INTEREST IN VESCO, WE ABANDON THE JURIDICAL REMEDIES WE HAVE TOUTED FOR SO LONG AND IN EFFECT ARE ASKING (SOME WOULD SAY, TRYING TO FORCE) THE GOCR TO MAKE AN APPARENTLY ILLEGAL, HARD POLITICAL DECISION ABOUT VESCO WHICH ODUBER, WE ARE CONFIDENT, COULD NOT ACCOMPLISH EVEN IF HE WANTED TO OR FOUND CONVENIENT. SUCH A MOVE EASILY COULD SET OFF A SERIES OF EVENTS WHICH COULD DEVELOP IN WAYS COMPLETELY BEYOND OUR CONTROL, AND WOULD OPEN A COMPLETELY NEW CHAPTER IN THIS SORRY NOVELA. WORSE

SECRET

SECRET

PAGE 04 SAN JO 03293 01 OF 02 190116Z

STILL, THE ODDS ARE OVERWHELMING THAT WE WOULD FAIL. IN THIS CONNECTION, JUSTICE SHOULD BE REMINDED THAT ODUBER AND GOCR HAVE CLAIMED THAT VESCO LAW WAS PASSED AS DIRECT RESPONSE TO WHAT THEY CONSIDERED TO BE UNWARRANTED USG PRESSURE ON VESCO CASE. IT WAS MODIFIED LAST YEAR TO FACILITATE EXTRADITION. IT IS CONCEIVABLE THAT WERE WE NOW TO SEEK A POLITICAL RATHER THAN JUDICIAL SOLUTION, ODUBER MIGHT TURN OUR REQUEST AROUND AND CITE IT AS REASON NOT TO CAUSE VESCO'S DEPARTURE. WE FURTHER SUBMIT THAT VESCO WOULD MAKE TRIUMPHANT USE OF SUCH A MOVE (THERE IS NO DOUBT THAT HE WOULD LEARN OF IT, PROBABLY SOONER RATHER THAN LATER) TO SHOW THAT THE USG HAS ALWAYS BEEN POLITICALLY MOTIVATED. WE ARE CONVINCED THAT VESCO'S POLITICAL PERSECUTION ARGUMENT, TO WHICH HE HAS RECENTLY ADDED THE LEARNED OPINION OF U.S. CIVIL RIGHTS LAWYER DR. HERBERT O. READ IN THE CONTROVERSY HERE (SEPTEL), WOULD BE SIGNIFICANTLY STRENGTHENED.

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PAGE 01 SAN JO 03293 02 OF 02 190635Z
ACTION SS-25

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S E C R E T SECTION 2 OF 2 SAN JOSE 3293

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5. BECAUSE AN EXPULSION REQUEST BY ITSELF IS
IN OUR JUDGMENT A NONSTARTER, AND IN VIEW OF DECISION THAT
EXTRADITION PROCEDURES MAY BE TOO COMPLICATED AND TIME-
CONSUMING, THE EMBASSY IS STRONGLY OF THE VIEW THAT THE
BEST U.S. COURSE OF ACTION FOR THE TIME BEING IS TO DO AND
SAY NOTHING RE THE VESCO CASE. OUR LINE SHOULD CONTINUE TO
BE THAT ENTIRE VESCO MATTER IS UNDER STUDY. THIS COURSE
LEAVES OPEN THE OPTION OF RETURNING TO EXTRADITION IF AND WHEN
A CLIMATE PROPITIOUS TO THE SUCCESS OF THE EFFORT RETURNS.
IT KEEPS VESCO OFF BALANCE. MORE IMPORTANT, THOUGH WE ARE
ANYTHING BUT CONFIDENT OF SUCCESS, THERE ARE POLITICAL
FORCES IN PLAY IN COSTA RICA NOW THAT COULD POSSIBLY CAUSE
VESCO'S DEPARTURE. MIN PUBLIC SECURITY TOLD
AMBASSADOR HE SEES VESCO'S PRESENCE AS ONLY POSSIBLE DISRUPTIVE
FORCE IN ELECTION CAMPAIGN, AND THAT HE IS CONSULTING JUDICIAL
AUTHORITIES RE VESCO'S POSSIBLE DEPARTURE. OPPOSITION CAN-
DIDATE CARAZO OPINES PRIVATELY THAT THE GOVERNMENT PARTY WILL
SEE TO IT THAT VESCO IS NOT AROUND DURING THE CAMPAIGN. WE
NEED NOT FEAR THAT VESCO WILL BECOME A CITIZEN SOON-AT LEAST
NOT BEFORE THE FEBRUARY 5, 1978 ELECTION DATE; THAT APPEARS TO
BE POLITICALLY OUT OF THE QUESTION (SAN JOSDB2817).

6. TO ANNOUNCE THAT WE HAVE ABANDONED THE EXTRADITION OPTION
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SECRET

PAGE 02 SAN JO 03293 02 OF 02 190635Z

(WITH OR WITHOUT AN EXPULSION REQUEST) IS ALSO INADVISABLE.
THIS WOULD EASE THE HEAT ON VESCO, AND COULD CUT OUT THE GROUND
FROM THOSE MANY COSTA RICANS BOTH IN THE GOVERNMENT PARTY AND
IN THE OPPOSITION WHO ARE PUSHING TO GET HIM OUT ONE WAY OR
ANOTHER. IN REVIEW ONLY LAST WEEK OF U.S. POSITION WITH LOCAL
LEGAL COUNSEL, LAWYER OPINED STRONGLY AGAINST ANY EXPULSION
REQUEST OR U.S. ANNOUNCEMENT OF ABANDONMENT OF EXTRADITION
CONSIDERATION. LAWYER FULLY UNDERSTANDS WHAT THE USG'S OPTIONS
ARE, AND ALTHOUGH HE FEELS THAT THE BEST TIME FOR EXTRADITION
IS PAST, HE NOTES THAT POLITICS MAY JUST WORK IN OUR FAVOR TO
CREATE THAT ATMOSPHERE ONCE AGAIN, EITHER BEFORE OR JUST AFTER
ELECTION.

7. ALTHOUGH IT IS TRUE AS JUSTICE ARGUES THAT DIRECT
DISCUSSIONS WITH GOCR OFFICIALS CAN SOMETIMES CAUSE EXPULSION
OF FUGITIVES, THE VESCO CASE OBVIOUSLY IS DIFFERENT FOR
REASONS THIS EMBASSY HAS BEEN REPORTING SINCE 1973.

MANY ASPECTS OF THE VESCO CASE, NOT THE LEAST OF WHICH ARE ITS NOTORIETY AND ITS POLITICAL OVERTONES BOTH IN U.S. AND COSTA RICA, MAKE IT FUTILE TO COMPARE IT WITH OTHER CASES OF RETURN OF FUGITIVES BY MEANS OTHER THAN FORMAL EXTRADITION. THE O'BRONT CASE CERTAINLY IS NOT A USEFUL PRECEDENT. IN FACT IT WAS PRECISELY BECAUSE COSTA RICA WANTED TO AVOID ANOTHER VESCO SITUATION THAT MR. O'BRONT, IN COUNTRY FOR A SHORT PERIOD ON A TOURIST VISA, WAS GIVEN OVER TO THE CANADIANS SO RAPIDLY. ALSO, IT IS WIDELY HELD HERE THAT O'BRONT SIMPLY DID NOT HAVE VESCO'S CONNECTIONS OR WHEREWITHAL. THE PENNINGTON AND GRAYBEAL CASES LIKEWISE ARE NOT ENCOURAGING PRECEDENTS. IN FACT, PENNINGTON WAS NOT EXPelled FROM COSTA RICA AND GRAYBEAL WAS EXPelled OOVY AFTER REPEATED REQUESTS BY EMBASSY OVER SEVERAL YEARS.

8. THERE ARE OTHER INCONSISTENCIES IN THE CIVILETTI LETTER

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PAGE 03 SAN JO 03293 02 OF 02 190635Z

WHICH MERIT COMMENT. RE PARA 4, VESCO CLAIMS NOT TO BE A U.S.BMX CITIZEN A CLAIM HIS SON REPEATED TO THE AMBASSADOR A COUPLE OF WEEKS AGO. ITALY RECOGNIZES HIM AS A CITIZEN AND, AS JUSTICE NOTES, HE DOES HAVE AN ITALIAN PASSPORT. (HE ALSO HAD A COSTA RICAN PASSPORT WHICH HE CLAIMS WAS STOLEN). THUS WE HAVE NO BASIS TO ADVISE GOCR THAT "FUGITIVE LACKS A VALID DOCUMENT". HE OBVIOUSLY DOES, OR COULD BE EXPECTED TO BE ABLE TO GET ONE, IF NEEDED.

9. EMBASSY IS PERSUADED BY ONLY ONE ELEMENT OF ARGUMENT THAT EMBASSY TAKE SOME DIRECT ACTION NOW WITH GOCR IN THIS MATTER. WE THINK IT WOULD BE INSTRUCTIVE FOR PRESIDENT ODUBER TO KNOW THAT USG HAS CONSIDERED AND IS CONSIDERING THE VESCO CASE AT THE PRESIDENTIAL LEVEL. THIS MESSAGE NEED NOT BE COUPLED WITH AN INVITATION OR REQUEST TO EXPEL. IT COULD BE COMMUNICATED SIMPLY TO ODUBER ALONG WITH OUR COMMENT THAT THE AUGUST TIME FRAME FOR VESCO'S DEPARTURE THAT ODUBER MENTIONED TO ASSISTANT SECRETARY TODMAN DURING MRS. CARTER'S VISIT (SAN JOSE 2638) IS BEING KEPT CLEARLY IN MIND AS WE PLAN OUR NEXT MOVES.

10. IN SUM, AN EXPULSION REQUEST WILL NOT GET US VESCO, AND COULD UNLEASH EVENTS DETRIMENTAL TO BILATERAL RELATIONS. IT WOULD DROP THE ISSUE FROM THE LEGAL/JURIDICAL LEVEL, WHERE WE HAVE ATTEMPTED TO TREAT IT ALL THESE YEARS, TO THE BALDLY POLITICIZATION THE OVERTONE WOULD BE ACCEPTED IN SOME CIRCLES AS CLEARLY INTERVENTIONIST. EXTRADITION IS STILL OUR PREFERENCE. IN OUR VIEW IT IS THE APPROPRIATE WAY FOR TWO DEMOCRATIC COUNTRIES WITH COMPATIBLE AND INDEPENDANT JUDICIAL SYSTEMS TO APPROACH WHAT IS ESSENTIALLY A MATTER OF JUSTICE, EXISTING OBSTACLES IN COSTA RICAN LAW NOTWITHSTANDING. IF WE CANNOT BRING OURSELVES TO ATTEMPT EXTRADITION, THEN OUR

BEST COURSE FOR NOW IS TO SAY NOTHING. IN THAT WE KEEP
OUR OPTIONS OPEN AND WE ALLOW COSTA RICAN POLITICAL FORCES
POSSIBLY TO RESOLVE THEIR PROBLEMS IN OUR FAVOR. IN THIS
CONNECTION, DEPARTMENT WILL RECALL THAT PRESIDENT ODUBER
SECRET

SECRET

PAGE 04 SAN JO 03293 02 OF 02 190635Z

IS STILL ON RECORD THAT VESCO WILL LEAVE COSTA RICA. WHILE
ODUBER IS NOT COMMITTED TO VESCO'S DEPARTURE BY A GIVEN
DATE, AND THERE IS A POSSIBILITY THAT JUDICIAL IMPEDIMENTS
TO VESCO'S DEPARTURE COULD TAKE ODUBER OFF THE HOOK, POLITICAL
OPPOSITIONISTS BELIEVE THAT ODUBER IS OBLIGATED POLITICALLY
TO GET VESCO OUT OF COUNTRY BEFORE THE ELECTIONS OF FEBRUARY
1978. VESCO'S DEPARTURE FROM COSTA RICA FOR ANOTHER COUNTRY
OF REFUGE MIGHT NOT BRING HIM CLOSER TO US JUSTICE, BUT
NEITHER WE REGRET TO CONCLUDE, WILL ANY USG EXPULSION
REQUEST. IWEISSMAN

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